

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

ARTHUR HIRSCH,)	
Plaintiff,)	
)	
)	
v.)	Civil Action No. 1:14-CV-106
)	Jury Trial Demand
)	
PATRICIA MCGUIRE, et al.,)	
Defendants.)	

DEFENDANT JEFF REED'S MOTION TO DISMISS

Defendant, Wayne Sellers, pursuant to Fed. R. Civ. P. 12(b)(6), and through the undersigned Senior Counsel, moves for dismissal of the Complaint on the grounds that: (1) Eleventh Amendment immunity precludes an action against Sergeant Reed in his official capacity, and he is not a "person" subject to suit for damages in his official capacity; (2) *Miranda v. Arizona*, 384 U.S. 436 (1966) does not apply because there was no custodial interrogation, thus there was no violation of plaintiff's 5th Amendment rights; (3) Plaintiff's Fourth, Sixth and Fourteenth Amendment rights were not violated because there was a probable cause determination made within 48 hours of the arrest, and the United States Constitution is only implicated in cases where there is to be continued detention; (4) There are no cognizable damages actions for alleged violations of the Tennessee Constitution; (5) Plaintiff has no action for alleged violation of the Rules of Criminal Procedure. The Rules do not provide any cause of action for damages,

and in any event, plaintiff was not damaged; and (6) In the alternative, this case should be dismissed on *Younger v. Harris* abstention grounds.

A Memorandum of Law in Support of this Motion to Dismiss is filed contemporaneously herein.

Respectfully submitted,

ROBERT E. COOPER, JR. 10934
Attorney General and Reporter

S/Dawn Jordan
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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Defendant Jeff Reed's Motion to Dismiss been filed electronically and may be accessed through the Court's electronic filing system. The following will receive a copy via first class, postage prepaid mail:

Arthur Jay Hirsch
1029 W. Gaines Street
Lawrenceburg, TN 38464

on this 8th day of September, 2014.

S/Dawn Jordan
DAWN JORDAN